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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/532,006	04/19/2005	Takashi Matsumoto	2005_0622A	3824
513 7590 10/10/2007 WENDEROTH, LIND & PONACK, L.L.P. 2033 K STREET N. W. SUITE 800 WASHINGTON, DC 20006-1021			EXAMINER FOX, BRYAN J	
			ART UNIT 2617	PAPER NUMBER
			MAIL DATE 10/10/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/532,006

Applicant(s)

MATSUMOTO, TAKASHI

Examiner

Bryan J. Fox

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 July 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 5-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 5-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Objections***

Claim 6 is objected to because of the following informalities: Claim 6 depends on canceled claim 1. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jo et al (US 20030112753A1) in view of Taketsugu et al (US005740167A).

Regarding claim 5, Jo et al disclose a source departure time of the data packet is recorded in the source departure time filed (see paragraph 39) that is compared to a current time and an acceptable delay time (see paragraph 52) and either discarded or transferred accordingly (see paragraphs 54-56), which reads on the claimed, "information embedding means for embedding an abandonment time in packets to be

successively transmitted to another...terminal or to said access relaying apparatus, wherein the abandonment time is a time until a subsequent packet to be transmitted, after a previous packet transmission, is abandoned using time-out control," and, "transmission means for transmitting the packet into the local network." In the case of receiving the data packet, the divider divides the data packet into the header and the payload and provides the header to the header processing unit (see paragraph 41), which reads the source departure time (see paragraph 44), which reads on the claimed, "reception means for receiving the packets of data successively transmitted by said transmission means; reading means for reading an abandonment time contained in the packets received by said reception means." The source departure time of the data packet (see paragraph 39) is compared to a current time and an acceptable delay time (see paragraph 52) and either discarded or transferred accordingly (see paragraphs 54-56), which reads on the claimed, "determination means for determining whether said reception means has received the subsequent packet before the abandonment time elapses; and transmission right granting means for compulsorily granting a transmission right to transmit the subsequent packet to said at least one...terminal attempting to transmit the subsequent packet when said determination means determines that said reception means has not received the subsequent packet before the abandonment time elapses." Jo et al fail to disclose the use of radio communication or carrier sense means for determining whether a radio transmission line between the other radio communication terminal or the access relaying apparatus and the radio communication terminal is available or not.

In a similar field of endeavor, Taketsugu et al disclose a busy/idle field that indicates whether a channel is idle (see column 5, lines 43-60) in a cellular communication system (see column 4, lines 3-21), which reads on the claimed, "carrier sense means for determining whether a radio transmission line is available between said at least one radio communication terminal and another radio communication terminal or said access relaying apparatus."

It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify Jo et al with Taketsugu et al to include the above use of the busy/idle field in a cellular communication system in order to allow the accessing of a common channel from a plurality of terminal as suggested by Taketsugu et al (see column 1, lines 53-61).

Regarding claim 7, Jo et al disclose a source departure time of the data packet is recorded in the source departure time filed (see paragraph 39) that is compared to a current time and an acceptable delay time (see paragraph 52) and either discarded or transferred accordingly (see paragraphs 54-56). In the case of receiving the data packet, the divider divides the data packet into the header and the payload and provides the header to the header processing unit (see paragraph 41), which reads the source departure time (see paragraph 44), which reads on the claimed, "reception means for receiving packets of data successively transmitted from said at least one...terminal; reading means for reading an abandonment time information contained in the packets received by said reception means, wherein the abandonment time is a time until a subsequent packet to be transmitted, after a previous packet transmission, is

abandoned using time-out control.” The source departure time of the data packet (see paragraph 39) is compared to a current time and an acceptable delay time (see paragraph 52) and either discarded or transferred accordingly (see paragraphs 54-56), which reads on the claimed, “determination means for determining whether said reception means has received the subsequent packet before the abandonment time elapses; and transmission right granting means for compulsorily granting a transmission right to transmit the subsequent packet to said at least one...terminal attempting to transmit the subsequent packet when said determination means determines that said reception means has not received the subsequent packet before the abandonment time elapses.” Jo et al fail to disclose the use of radio communication.

In a similar field of endeavor, Taketsugu et al disclose a cellular communication system (see column 4, lines 3-21).

It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify Jo et al with Taketsugu et al to include the above cellular communication system in order to allow the accessing of a common channel from a plurality of terminal as suggested by Taketsugu et al (see column 1, lines 53-61).

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jo et al in view of Taketsugu et al as applied to claim 5 above, and further in view of what was well known in the art (see MPEP 2144.03).

Regarding claim 6, the combination of Jo et al and Taketsugu et al fails to expressly disclose the packet is an audio packet.

The Examiner takes official notice that an audio packet was well known in the art at the time of the invention.

It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the combination of Jo et al and Taketsugu et al to include the above use of an audio packet in order to extend the compatibility of the system.

### ***Response to Arguments***

Applicant's arguments with respect to newly added claims 5-7 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryan J. Fox whose telephone number is (571) 272-7908. The examiner can normally be reached on Monday through Friday 9am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles N. Appiah can be reached on (571) 272-7904. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Bryan Fox  
October 1, 2007



CHARLES N. APPIAH  
SUPERVISORY PATENT EXAMINER